

# New Government for Today's Portland: Rethinking 100 Years of the Commission System

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**CITY CLUB of PORTLAND**

City Club members will vote on this report between February 12 and February 24. Until the membership votes, City Club of Portland does not have an official position on this report. The outcome of the vote will be reported online at [pdxcityclub.org](http://pdxcityclub.org).

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## Executive Summary

This research committee was charged with analyzing what the best form of government would be in terms of representation for the residents of Portland and whether Portland's current commission form of government equitably represents all residents of the city. In answering these questions, the research committee examined both the administrative structure of Portland's city government (how it is run) and the method used to choose elected officials. Because an inefficient, unaccountable or unworkable government system is neither representative nor equitable, the research committee also examined questions of efficiency and accountability. The topic is broad. One research committee cannot develop a complete, legal description of an ideal form of government. For that reason, rather than providing a complete blueprint, the committee's recommended reforms are intended to help inform the next meeting of the City of Portland Charter Review Commission, to serve as a guide for policymakers in the city, and to inspire future ballot measures.

Your committee concludes that although the current commission form of local government has various merits, it is inherently inequitable and has long since ceased to be the most effective form of government for Portland. In addition to producing a council that is not representative of the city as a whole, the commission form of local government is organized such that city bureaus are run by commissioners with little, if any, regard to their managerial or subject-matter expertise. For reasons explained in the body of this report, the commission form also makes it difficult to set and pursue long-term and citywide priorities.

Based on our research and analysis of the facts, your research committee submits three broad recommendations.

### **1. PORTLAND MUST TRANSITION TO A MODIFIED COUNCIL/MANAGER FORM OF GOVERNMENT.**

Under this form, elected members of the city council would focus their time and energy on policy development, long-term strategic planning, budgeting, and constituent services. The mayor would serve as the chair of the city council (as is the case now) and would also supervise the work of the city manager. The city's day-to-day bureaucratic administrative functions would be handled by a professional, non-political city manager whose function is to effectively implement the policies and budgets approved by the city council. Candidates for city manager would need to possess appropriate professional certifications and experience and would be selected by the mayor subject to approval by the city council. This method of selecting a city manager would vest the mayor with appropriate authority to manage the city without concentrating executive power too heavily in a single office.

### **2. PORTLAND MUST INCREASE THE SIZE OF THE CITY COUNCIL.**

The city council should be increased from the current five members (four commissioners plus the mayor) to between nine and thirteen members (eight to twelve city councilors elected from districts, plus a mayor elected at large). This number of city councilors would put Portland more in line with other American cities of similar size and would significantly increase the ability of the city council to represent Portland's increasingly diverse population without suffering from the excessive costs and difficult operation associated with very large city councils.

### **3. PORTLAND MUST CHANGE HOW CITY COUNCIL MEMBERS ARE ELECTED.**

Instead of electing all city council members on an at-large basis, we recommend switching to district-based elections, preferably with multiple members per district (for example, three districts each electing three members

of the city council). Among the benefits of multi-member, district-based elections are greatly increased geographic representation on the city council and a lowering of the financial and other barriers to entry into the political process for traditionally underserved groups. This report also examines various alternative voting methods and recommends transitioning to some form of instant-runoff voting system (one in which there would be a single election in November rather than the current two-stage, May and November system), subject to further research

and refinement. Changing the voting model to a single-round system would lead to wider participation in the electoral process, since many more voters cast ballots in November than May; could allow for increased competition by reducing the advantages of incumbency; and could further reduce barriers to entry into the political process by traditionally underrepresented groups.

Finally, the report presents suggestions for further research.

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## Introduction

Portland has changed enormously since the current City Charter was adopted in 1913. The population has increased from less than 200,000 to more than 600,000 and has diversified from its almost exclusively white roots that trace their origins to Oregon's initial "whites only" state constitution and to racial and ethnic ownership restrictions on a number of Portland neighborhoods

Despite those monumental changes, the form of government in Portland remains largely the same, including the fact that the entire population is represented by just five city council members, four of whom also serve as commissioners directly in charge of the administration of city bureaus while the fifth serves as mayor, city council member, and commissioner. In the face of these monumental changes, as well as the changes yet to come, the City Club of Portland has periodically conducted reviews and analyses of the functioning of our city government.

In late 2016, City Club formed the City Government and Equity Research Committee from among interested City Club members to research and report based upon a charge that asked:

1. In 2017, what is the best form of government in terms of representation for the citizens of Portland?
  - a. Does the current commission form of government equitably represent all residents of the city?
2. How should we choose our representatives?

Sometime between now and 2021, the City of Portland Charter Review Commission will conduct its next review of Portland's 105-year-old structure of city government. The City Club assembled this research committee to prepare for that review and to recommend how to improve our city government in terms of both equity and bureaucratic efficiency.

The Research Committee gathered information and perspectives to inform this report. Those methods included a comprehensive literature review, interviews with a diverse set of witnesses—including many civic leaders, and analysis of relevant data and research reports. A more detailed description of the research methods is in Appendix A of this report.

### THE FIRST STEP: DEFINING EQUITY

While the charge from City Club included a definition of equity drawn from the City of Portland's Office of Equity and Human Rights, your research committee strove to tailor that definition to the specific task of assessing the form of city government. Based on interviews with local experts, we concluded that the process of government decision-making needs to be examined through an equity lens that prompts one to ask key questions, not just about outcomes, but also about whether that process is itself equitable. After all, an inequitable process is much less likely to lead to an equitable outcome than a process that is itself equitable. Based upon interviews with multiple

experts on equity and the use of equity lenses in public policy, we developed five broad elements of our equity lens to examine whether Portland's current system of government, or any proposed alternative system, is likely to l

ead to equitable policy results.

**1. Does the process lead to diverse candidates and officials?** Are there barriers to running for office that favor certain groups over others? Are city residents able to vote for and elect officials from many different backgrounds? Do candidates for office have a broad array of success stories to inspire their own entry into city government?

**2. Are policy outcomes equitable?** Do policies tend to increase or decrease existing disparities between different demographic groups? Are city resources

allocated fairly and independently of the beneficiaries' wealth, location or background?

**3. Does the process encourage greater voter participation?** Do voters have the opportunity to advance candidates and policy initiatives that are meaningful to them?

**4. Is the process responsive?** Does it meet the needs of the various city communities on a day-to-day basis? Are all residents equally able to lobby their representatives and city bureaus effectively and efficiently regardless of their race, ethnic background or place, of residence within the city?

**5. Does the process maintain equity long-term?** Does the process reflect the fact that equity is a goal that must be worked toward consistently? Are short-term gains interpreted as "job done" rather than a step in the right direction? Is success sustained and continually built upon?

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## City Government Structures Across the U.S.

### POWERS OF CITY GOVERNMENT

City governments in the United States exercise various powers as established through state law and constitutions. These powers fall primarily under the following broad categories:

**Executive authority** involves the implementation of city ordinances and policy, and the management of personnel and city resources. Executive authority includes, but is distinct from, **administrative authority**, the more day-to-day, "street-level" organization and functioning of city government, especially that of city bureaus.

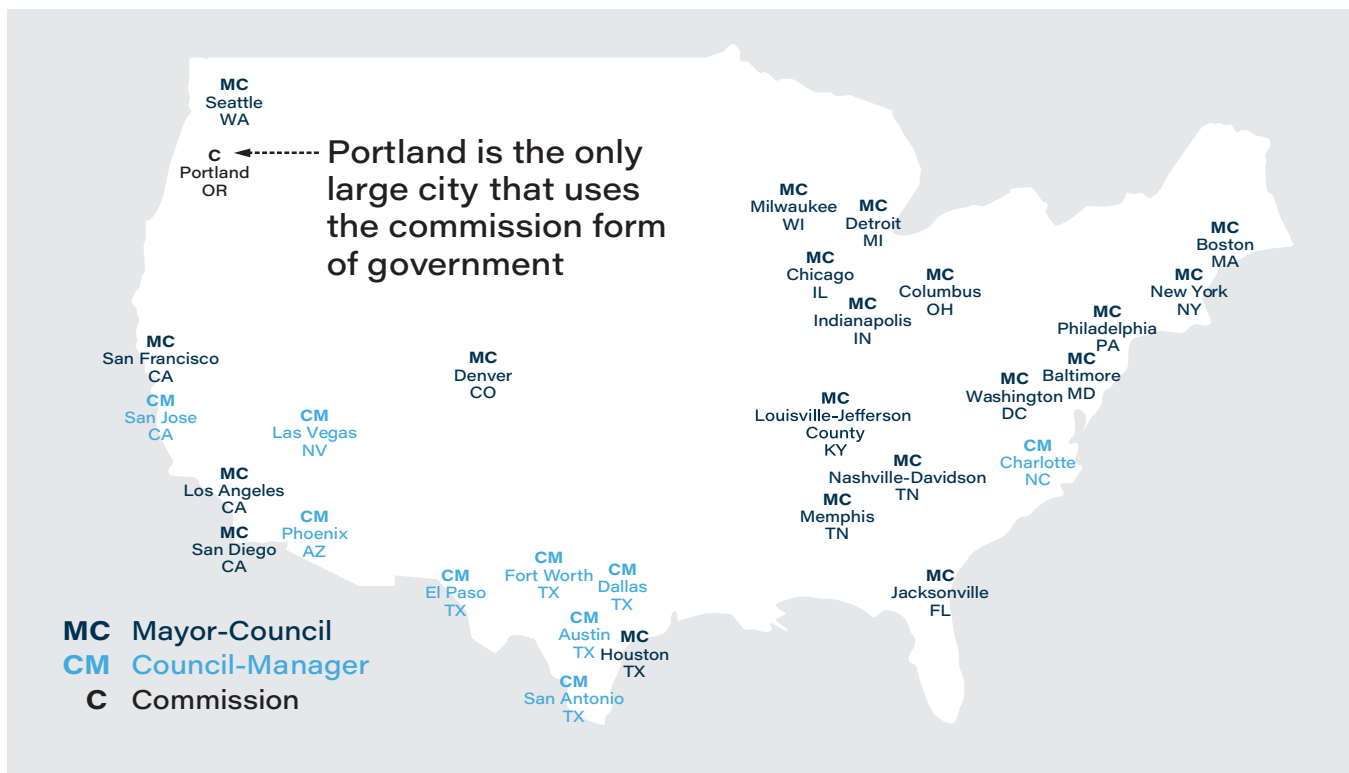
**Legislative authority** is the power to approve municipal budgets, pass ordinances, and create policies for the executive authority to implement. This category also includes oversight responsibilities, such as

holding hearings to examine the functioning of the city government's other powers.

**Quasi-judicial authority** is limited in the municipal arena, but is found in land-use appeals and other specialized appeals and hearings.

### COMMON TYPES OF CITY GOVERNMENT

According to the National League of Cities, a large majority of cities in the United States, particularly those of significant size, are governed by one of two types of city government: the strong mayor/city council form, and the city council/manager form. Among cities with a population over 100,000, roughly 55 percent have selected the city council/manager system, and roughly 34 percent use a strong mayor/city council system. The National League of Cities also notes that strong mayor/city council form is "found mostly, but not exclusively, in older, larger cities or



in very small cities.<sup>1</sup> The city council/manager form is, by a wide margin, the most common among cities roughly the size of Portland. Portland is the only city in the United States with a population greater than 100,000 that still uses the commission system. Elsewhere in Oregon, the city council/manager system is most popular.

#### STRONG MAYOR/CITY COUNCIL

Under this system, the mayor is the chief executive officer, while the council functions as the legislative body. Broad legislative policy-setting is thereby separated from day-to-day administrative responsibilities and business. Mayors under this system are elected at large, have the power to hire and fire city bureau chiefs, prepare a budget for council consideration, and have veto power over council decisions. In most such systems, the mayor is not a voting member of the council and generally does not attend city council meetings. The perceived advantages of this system are centralized, streamlined leadership and improved pursuit of citywide policy priorities.

Its perceived disadvantages are concentrating too much power in one office and a potential lack of managerial and/or administrative skills on the part of the mayor. The concentration of power into a single person also means that city policies are more prone to sudden post-election swings than in cities that use the council/manager system since changing the mayor alone can significantly change the entire policy orientation of the city. Seattle and New York City are examples of large cities with a classic strong mayor/city council system of government.

#### CITY COUNCIL/MANAGER

In a pure council/manager system, the city council hires a professional city manager to implement the city council's policies and handle the city's day-to-day administrative needs. The position is typically selected by the city council and reports directly to it. The city council/manager system is sometimes called the "weak mayor" system because the mayor does not administer the city government on a day-to-day basis, and there are often

<sup>1</sup> National League of Cities (<http://www.nlc.org/forms-of-municipal-government>) based on data from surveys conducted by the International City Council/Manager Association (<https://icma.org/>).

relatively few formal powers that distinguish the mayoral position from those of other city council members. While the mayor often has some specific roles, such as presiding over city council meetings, representing the city at events, or nominating city council members to serve on specific committees or boards, the mayor shares both executive and legislative authority with the rest of the city council. In some cities with a city council/city manager system, the mayor is chosen by the city council rather than being directly elected, although this form is less common among larger cities.

The perceived advantages of the city council/city manager system are that it increases representation and responsiveness by placing both legislative and policy-making power in the hands of elected representatives while increasing administrative efficiency by delegating day-to-day administration and implementation of those policies to career professionals who do not engage in politics. Its perceived disadvantages are a lack of strong leadership and centralized responsibility when compared to the strong mayor system. Some cities have also experienced problems with a high city manager turnover rate or a tendency for city managers to involve themselves in politics or otherwise try to influence policy, although many other cities avoid that problem. An example of a large city with a city council/city manager system is Austin, Texas, a city that previously used the commission form of government. The mayor of Austin is directly elected by the voters to represent their city and to serve as Chair of the city council, but has few additional powers beyond those of other members of the city council.

## COMMISSION

The commission form of government places all or most government functions into the hands of commissioners. Commissioners, who also serve as city council members, exercise executive functions (as the heads of city bureaus and departments), legislative functions (as city council members who vote on ordinances and budgets), and administrative functions (by directly implementing city policy in their respective bureaus). The commissioners may also exercise quasi-judicial powers by making decisions in zoning appeals or related matters governed

by strict legal procedures. To understand the breadth of a commissioner's role, it is useful to consider that a single commissioner could conceivably draft an ordinance, lobby for the city council to approve it, vote in favor of the ordinance in a city council meeting, enforce it in their own bureau, and then decide an appeal from a constituent protesting some aspect of the ordinance. At the time the system was introduced more than 100 years ago, there was no professional civil service, and one perceived advantage of the system was that it would reduce rampant cronyism and corruption by placing elected officials with expertise in certain areas (planning, police, or parks, for example) directly in charge of running those functions. Over time, however, some of those perceived advantages proved not to be true and many cities abandoned the commission form of government due to corruption and inefficiency. A more complete history of the commission form of government is included later in this report.

Most cities that once had the commission form of government differed from Portland's system in that commissioners ran for office and were elected to oversee specific parts or bureaus of the city government. Someone would run, for example, to become Commissioner of Public Works, and then serve in that position, running the water and sewer agencies, while in office. Portland's system is quite different than the "standard" model

because the mayor assigns bureaus to commissioners. In most other cities that once used the commission system, there was often no elected mayor. Instead, the commissioners would select one of their ranks to serve as chairman or mayor, a role that typically did not involve additional powers beyond those exercised by the other commissioners. The mayor's principal role was to chair meetings. However, some cities with the commission

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form, including Portland, have an elected mayor with the authority to assign or withdraw executive responsibilities from other commissioners.

#### OTHER SYSTEMS

The strong mayor and weak mayor models are part of a continuum. In the U.S. today, as well as around the globe, many cities incorporate elements of both systems in their municipal government. For example, in a fairly common variant that could be called a “relatively strong mayor” system, a mayor serves as the city’s chief executive

officer, and nominates and supervises a city manager whose hiring and termination must be approved by the city council. Under such a system, the mayor and city council together work with the city manager to develop the budget. The city council’s primary role under such a system is legislative, including the power of the purse and the power to establish policy directions and priorities, while the mayor’s role is chiefly as chairperson of the city council and the day-to-day supervisor of the city manager. There are many other variations in use in the United States today.

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## Current Structure of Portland City Government: A Modified Commission Form

Under the current city charter, Portland uses a unique variant of the commission form of city government. The city’s particular commission is composed of four commissioners and the mayor, all of whom are elected in citywide nonpartisan at-large elections.

All five members serve as executive heads of city bureaus. As typical in the commission system, the mayor is fairly weak in many respects, because commissioners, rather than the mayor, directly oversee most bureaus. The mayor has one vote on the city council, like the other commissioners, and shares executive authority with all commission members. Perhaps the most important way that Portland’s particular form of commission government is unusual is that Portland’s mayor has the power to appoint or remove commissioners from their assigned bureaus and departments. In fact, mayors can—and occasionally do—reassign responsibility for all city bureaus to themselves, leaving the other commissioners with no bureaus to supervise. This makes Portland’s mayor uniquely powerful in the commission system. Even if a candidate for commissioner were to run on a platform of reforming policing, utilities, parks, or any other single aspect of city governance, there is no guarantee that the mayor would match that individual to that bureau.

Once a commissioner is assigned to a particular bureau by the mayor, that commissioner may choose a professional manager to run its daily operations, and

may hire and fire both that administrator and top bureau managers at will (subject to civil service rules). The five-member commission is also the legislative body, and passes city ordinances, sets the budget, and decides city policies. The commission exercises its quasi-judicial powers when it hears land-use or other appeals, which require it to make formal findings and conclusions, controlled by various legal requirements. In addition to making bureau assignments, the mayor’s other special powers include chairing city council meetings, and preparing a proposed budget for review by the full commission.

The sixth elected position in the city is the auditor, charged with conducting financial and efficiency audits of city government. Portland voters recently voted to amend the city charter to grant the office of the auditor greater freedom from the bureaus it oversees. The amendment further allows the auditor’s office to seek independent legal counsel, rather than the same counsel used by bureaus under audit. The city auditor is not a member of the city council and does not have the right to vote on measures, instead serving as a source of objective evaluation, advice, and data on city functions.

The mayor, the four commissioners, and the city auditor are each elected to four-year terms, with the elections staggered to prevent complete turnover of the council. The mayor and two commissioners are elected



in one election year, while the city auditor and the remaining commissioners are elected two years later.

Portland's city council includes four elected commissioners and the mayor—the same size as in 1913. Since Portland's population has more than tripled in the time since, from 200,000 to 639,000, this now works out to slightly fewer than 128,000 constituents per commissioner.<sup>2</sup> Almost without exception, other cities with similar populations have larger city councils.

## HISTORY OF THE CURRENT SYSTEM

The commission form of government was first introduced in Galveston, Texas in the wake of a hurricane disaster. It “appealed to business and professional men who deemed the older ward style of governance as corrupt.”<sup>3</sup> Commissioners were elected to oversee specific functions. The popular thinking was that while aldermen had used their power to hand out jobs to whoever supported them (so-called “spoils”), professionals elected based on their expertise in specific areas—such as infrastructure, business development, schools, or public security—would be more motivated and more able to choose city employees based on their actual abilities.

In the early 1900's, Portland—like nearly all other U.S. cities—did not yet have a civil service system. While the civil service system began to be implemented at the federal level by the end of the 19th century, progress at the municipal level was much slower, with some U.S. cities relying on the spoils system until as late as the 1950's.<sup>4</sup> Instead of career professionals staffing city departments, nearly every city employee would often be replaced following each election. Public distrust of the resulting “spoils system” and the corruption it engendered, along with the need for experienced professionals in local government, eventually led to adoption of the modern civil service system. Prior to its existence, however, the commission system was viewed as an

alternate means to increase the odds that elected officials would hire staff with appropriate expertise.

Portland first shifted to the commission form of government in 1913, during a nationwide reform movement that arose due to widespread dissatisfaction with the “ward system” and resulting spoils system found in most cities. During this period, many cities moved to the commission form to try to escape the problems of corruption, inefficiency and civic paralysis that had come to define American city government. By 1917 more than 500 cities had adopted the commission form, after which it gradually began to decline as cities switched to mayor/council or city manager/council systems. Today, Portland is the only city of significant size in the country to retain the commission form of government.

While the commission form of government remained widespread in the country until the 1950's, over time it proved to be as susceptible to corruption and abuse as the models it had replaced. Public outrage over corruption was one of the main factors that drove Galveston to abandon the commission form in 1960 in favor of the city council/city manager model still in use there today.<sup>5</sup> Meanwhile, cities continued to abandon the “spoils system” in favor of a professional, career civil service. This reliance on career professionals whose positions did not depend on their allegiance to a politician or party was both a step toward more effective and efficient government and a means of decreasing the prevalence of corruption.

Not always obvious to the casual observer is the fact that the commission system of municipal government is inextricably tied to at-large voting—where voters across the jurisdiction all vote for each elected position. Combining the commission system with district- or ward-based voting would lead directly to a situation in which a representative elected by just one part of the city

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2 “7 Key Questions About How to Change Portland City Government,” Kristen Eberhard, Sightline Institute, 14 June 2017, <http://www.sightline.org/2017/06/14/7-key-questions-about-how-to-change-portland-city-government>

3 Texas Historical Association, *The Handbook of Texas*, chapter on the “Progressive Era” at <https://tshaonline.org/handbook/online/articles/npp01>

4 Fredrickson, Johnson and Wood, “The Changing Structure of American Cities: A Study of the Diffusion of Innovation,” *Public Administration Review*, May/June 2004, Vol. 64, No. 3.

5 Id. <https://tshaonline.org/handbook/online/articles/moc01>

would have control over the entire city's law enforcement, streets, or parks. The tendency for such a system to lead to highly inequitable and inefficient distribution of available resources led to the universal use of at-large voting in cities with commission governments.

While not generally discussed in public, there was another motivation for some cities preferring the commission system with its at-large voting system. As federal courts later found, in some jurisdictions racism was a motivating factor: electing commissioners city-wide prevented individual wards or districts with majority-African American populations from electing their own favored candidate and greatly decreased the likelihood that minority candidates could be successful in any campaign. In one landmark case, the Supreme Court found that at-large voting systems “tend to minimize the voting strength of minority groups by permitting the political majority to elect all representatives of the district.”<sup>6</sup> It is therefore not surprising that the landmark Voting Rights Act of 1965 (VRA) led to a precipitous decline in the number of cities using the commission system, as federal courts repeatedly ruled that at-large voting leads to systematic underrepresentation of ethnic minorities. Because the commission form of government is inextricably linked to at-large voting, legal challenges mounted under the VRA led to the elimination of commission governments in states and jurisdictions subject to its special enforcement provisions.<sup>7</sup> Court rulings holding that at-large voting disadvantages minority groups are so common that it can be hard to understand why at-large voting is still in use in Portland or anywhere else. But the Supreme Court has not found that all such systems are necessarily illegal and discriminatory because no statute generally proscribes at-large voting.<sup>8</sup> Instead, each instance must be considered on its own merits. In practice, in every state and county where the U.S. Department of Justice was authorized to self-initiate voting rights cases under the VRA, courts found against at-large voting. Portland,

like the rest of Oregon, was not subject to the special oversight provisions of the Civil Rights Act, so its commission government and at-large voting was never subject to the judicial scrutiny that has led a large swath of the country to abandon similar systems.

Since the adoption of the commission form in 1913, Portland voters have rejected a total of eight proposals that would have abandoned or significantly changed the current structure of city government. The two most recent attempts were in 2002 and 2007, each of which would have shifted Portland to a strong-mayor/council system. During the same time, City Club has reviewed and made recommendations for change on multiple occasions. Consistent in all recommendations—which included calls for creation of a city manager/council and a strong mayor/larger council government reform—City Club has expressed concern about the efficiency and representativeness of our community's commission form government. Appendix B provides more detail on past City Club reviews of local government structure in Portland.

#### CHARTER REVIEW COMMISSION

Since 2009, Portland's City Charter has included a requirement that a Charter Review Commission be convened at least every ten years. The first review was in 2011 and the next must occur no later than 2021, but it can occur earlier. When a Charter Review Commission is convened, each member of the city council nominates four commission members for approval by the full council. A general provision requires that the 20-member commission must be “reflective of the city” in terms of “racial and ethnic diversity,

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<sup>6</sup> Rogers v. Lodge, 102 S. Ct. 3272, 3275 (1982)

<sup>7</sup> <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5>

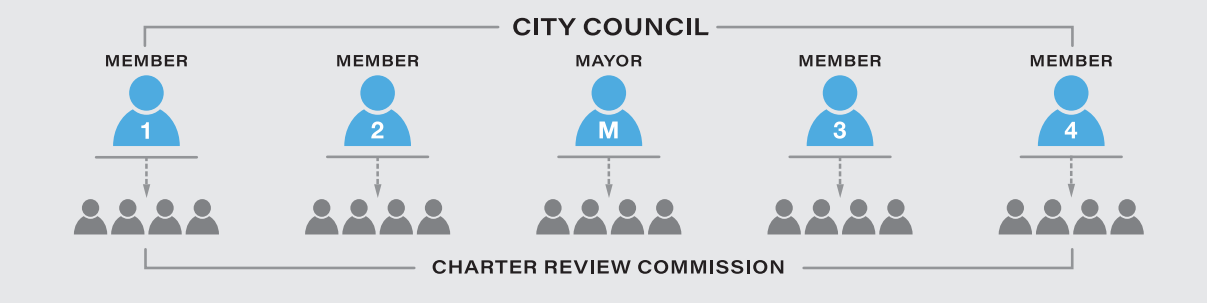
<sup>8</sup> See SENATE COMM. ON THE JUDICIARY, VOTING RIGHTS ACT EXTENSION, S. REP. NO. 417, 97th Cong., 2d Sess. 33, reprinted in 1982 U.S. CODE CONG. & AD. NEWS 177, 211

age and geography.”<sup>9</sup> The commission has broad latitude to recommend amendments to the city charter, which will be referred to Portland voters if a super-majority of 15 or more of the commission members agree. If a majority, but fewer than 15 of the members recommend changes, those recommendations are forwarded to the city council, which has the power to modify the recommendations in any way or reject them entirely. Two factors—the appointment of all

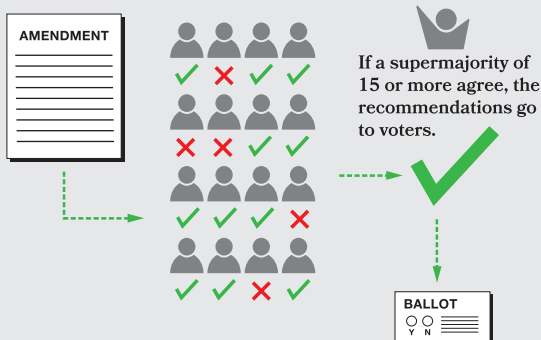
charter review commission members by the city council, and the requirement for a 75% super-majority to send recommendations directly to voters—have led to criticism of the charter review commission process as being too easily dominated by the city council. Case in point, the 2011 review did not recommend notable changes to Portland city government.

## HOW DOES THE CHARTER REVIEW COMMISSION WORK?

Each member of the city council selects four members to serve on the Charter Review Commission.

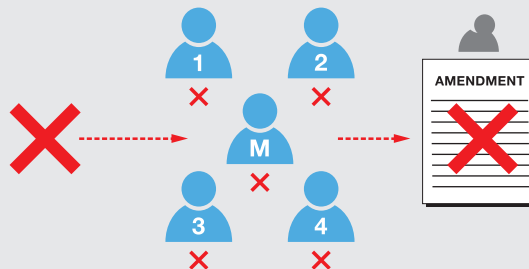


The Commission has broad latitude to recommend amendments to the City Charter.



OR

If there's no supermajority, the city council can accept, reject, or modify any recommendations.



## Your Research Committee's Analysis

The analysis below primarily compares Portland's current commission system with a potential council/city manager system. Your committee encountered so little support for a strong mayor system that we do not believe a full analysis of its potential merits would

be justified. The downsides repeatedly cited include a tendency to increase polarization in politics due to the “winner-take-all” nature of the system and a corresponding tendency for cities with a strong mayor system to gyrate between opposite political approaches rather

than adhering to a long-term, consensus position. Viewed through either Portland's existing values of cooperation and inclusion<sup>10</sup> or your committee's equity lens, the strong mayor system fails on multiple counts due to its tendency to grant the bulk of all political power to a single majority without built-in protections to ensure, or at least increase the likelihood, that minority voices are heard. Perhaps not surprisingly, given these weaknesses, proposals to give the mayor greater power were heavily rejected by Portland voters in 2002 and 2007 (the two most recent attempts to change Portland's form of government).

None of the witnesses meeting with this committee endorsed a strong mayor system, and several who were strongly in favor of abandoning the commission system in general stated they would stay on the sidelines or even oppose a proposed reform if it included a strong mayor. Portland-based political consultant Mark Wiener's testimony was particularly enlightening. Even though he believes that Portland's commission government needs to be replaced, he nonetheless opposed the last attempt at reform because he believes a move to a strong mayor system would be a major error. As he explained, he saw no reason to replace one bad system with another bad one and instead hopes to support a move to a better form of government in the future.

#### **AT-LARGE VOTING IS A BARRIER TO EQUITABLE REPRESENTATION IN PORTLAND**

Although there are several metrics by which Portland city government serves its residents well, the current at-large method of electing commissioners has consistently failed to produce a city council that is representative of the population it serves. Using either the city's own definition of equity or your committee's equity lens, described earlier, the current at-large system of voting represents a profound failure to promote equity. Although roughly a third of Portland is non-white, only three people of color

have ever been elected to the city council,"and one of those, Charles Jordan, initially joined the city council via an appointment rather than an election. Following his appointment to the city council, Charles Jordan handily won re-election and when he unexpectedly resigned, a special election drew a host of candidates for what was widely viewed as the "black seat" on the council. Indeed, in 1984, as in this year's election, two African-Americans made the run-off. The period of African-American representation on the city council came to a close in 1992 when Jordan's replacement, Dick Bogle, came in third in the primary to two white men. The fact that two African-American men served as commissioners decades ago, as well as the fact that Jo Ann Hardesty was elected commissioner this year, in no way lessens the inherent unfairness of the system. Instead, they can be viewed as the "exception that proves the rule."

The inherent bias in the current two-stage, at-large election system not only disadvantages people of color, but also anyone who is not from a privileged, white, male background. Only nine women have served, and—up to now—none of them have been women of color.<sup>12</sup> Portland residents who rent their home, who have lower incomes, and who live in the eastern and northern portions of the city are similarly drastically underrepresented.<sup>13</sup> Though the witnesses interviewed by the committee presented a broad range of viewpoints and opinions, there was zero disagreement about this essential facet of the status quo. Among the many witnesses who spoke eloquently about the fact that Portland's current city council does not represent the diversity of the city, Kristin Eberhard of the Sightline Institute stood out due to the wealth of concrete statistical evidence she brought. One chart, reproduced here with the permission of Ms. Eberhard and the Sightline Institute, speaks volumes. In a city that is increasingly ethnically diverse, not a single person of color had been elected since 1995 (until Jo Ann Hardesty

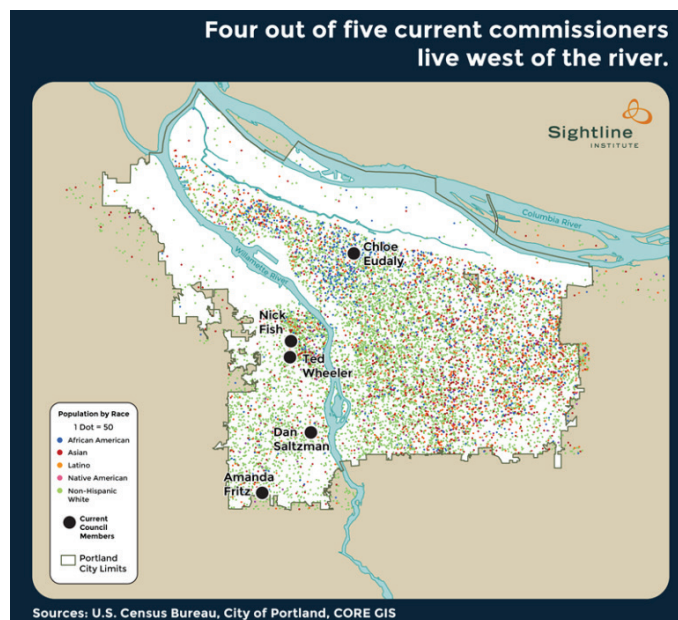
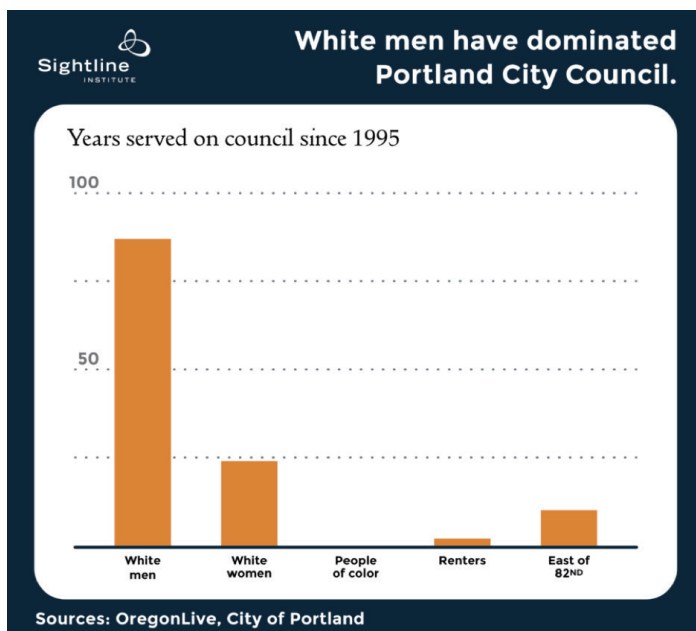
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<sup>10</sup> Testimony of Masami Nishishiba.

<sup>11</sup> "Portland City Government Doesn't Represent Portland Very Well", Kristin Eberhard, Sightline Institute, 13 June 2017, <http://www.sightline.org/2017/06/13/portland-city-government-doesnt-represent-portland-very-well>

<sup>12</sup> Id.

<sup>13</sup> Id.



won in November 2018) and only one commissioner had lived east of 82nd Avenue.<sup>14</sup>

A second chart from the Sightline Institute further illustrates the point.<sup>15</sup> In this map, the entire population of Portland is represented by colored dots. Each green dot represents 50 non-Hispanic white residents. Because non-Hispanic white residents are the majority in Portland, the green dots predominate. Looking more closely, however, it becomes clear that the part of the city that produces the vast majority of all successful candidates for city council is far whiter—has more concentrated green dots—than areas of the city that are underrepresented on city council or not represented at all. As shown by the red dots, Asian-American residents tend to be more prevalent in East Portland, which had no representation on the city council until Hardesty was elected. Thanks entirely to the successful candidacy of Chloe Eudaly, there is now one member of the city council (a non-Hispanic white female) from the area of the city where black residents are most prevalent,

although still in the minority (their population shown by blue dots). Prior to Ms. Eudaly's election, only Sam Adams had been elected from the far north of Portland.

While it is not impossible for a city council member to fairly represent segments of the population whose background, socioeconomic status, and ethnicity do not match their own, there is also certainly no guarantee that a non-representative city council will always choose to represent the views of all voters equally. (Note: In ancient Republican Rome, all members of the senate *were required* to be wealthy on the theory that the wealthy would be better equipped to judge what is best for everyone. That idea of representation no longer has many supporters since the modern conception of representative government acknowledges that a non-representative city council, though working in good faith, is almost guaranteed to deliver less equitable outcomes than a more representative council.) While it may be possible for a wealthy, white male homeowner to honestly present the view of a poor, female renter who is a person of color, there is nothing in the process to guarantee such a

<sup>14</sup> Kristin Eberhard and the Sightline Institute, "Portland, We Have a Problem." <http://www.sightline.org/2017/09/12/portland-we-have-a-problem/> Used with permission.

<sup>15</sup> Kristin Eberhard and the Sightline Institute, "Could Portland Create a City Council That Looks More Like Portland" <http://www.sightline.org/2017/06/15/could-portland-create-a-city-council-that-looks-like-portland/> Used with permission.

result. In other words, the good intentions of one or more members of the city council do not satisfy the criteria of maintaining equity in the long term. Instead, our current system is entirely dependent on the goodwill of those groups—the white, middle-aged, westside land-owners who are systematically favored to win office.

Even though none of the witnesses interviewed claimed that Portland city council members have *deliberately or consciously* favored the concerns of one segment of the city over another, or *intentionally* ignored the concerns of a particular section of the population, many witnesses expressed their belief that the underrepresentation of people of color, residents of East Portland, and other groups has effectively reduced those groups' voices in government and tilted decision making on planning, transportation, parks, and other issues against areas of the city where no city council members live. While several witnesses stated that the council has made deliberate, specific efforts to assist East Portland—the portion of the city whose residents are least represented on the council across several metrics—those statements were made in the context of arguments that the council works hard to represent all of Portland equitably in spite of the lack of representativeness among its commissioners.

#### AT-LARGE VERSUS DISTRICT ELECTIONS

The aspect of Portland city government that was by far the most commonly cited as an obstacle to equity by our witnesses was at-large elections for all city council positions. No witness was willing to defend that aspect of the system in terms of producing a diverse council. Witnesses were unanimous that, in comparison to district-based elections, at-large elections are more expensive to enter, result in lower voter participation rates, and produce more homogeneous representation.<sup>16</sup> While some witnesses did argue that city

council members elected at-large feel a responsibility to the whole city rather than a particular district, none could defend a situation in which nearly all city council members come from the one neighborhood that is both much wealthier and less diverse than Portland as a whole.<sup>17</sup> The academic literature we reviewed came to a similar conclusion. One study, for instance, compared San Francisco city government elections before and after a transition from at-large to district elections, concluding:

This analysis ... supports the idea that district elections reduce the funds needed to run successful campaigns, increase the participation of constituents, and especially increase minority involvement. These changes might provide opportunities for candidates representing different geographic areas, viewpoints, demographics, and levels of funding to run and be competitive.<sup>18</sup>

To summarize, while a few witnesses expressed their view that at-large elections are successful according to one equity metric—city council members delivering equitable outcomes because of their diffuse city-wide responsibility—most witnesses who ventured an opinion held the opposite view. Other evidence indicates that at-large elections fail across other metrics, including resulting in diverse representation and broad voter participation.

#### THERE IS SUBSTANTIAL ROOM FOR IMPROVEMENT IN THE BUREAUCRATIC FUNCTIONING OF PORTLAND'S CURRENT FORM OF GOVERNMENT

It is important at the outset to note that Portland residents have traditionally expressed satisfaction with city government and the commission form of governance. Portland has been recognized nationally and globally as a highly livable, modern city. Our urban planning has

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16 See, e.g., Testimony of Shelli Romero, stating that "It's tough ... having to run citywide and get enough votes. ... If there were districts, we'd have a greater chance of getting people from diverse districts."

17 See, e.g., Testimony of Masami Nishishiba, arguing that "commission members are supposed to think of the city as a whole—the basis of the commission form is that they would have a responsibility at-large to the city."

18 "Comparing San Francisco's At-Large and District Supervisor Elections' Average Spending and Participation Rates," Eric A. Lindgren, California Politics & Policy, June 2007, pp. 45.



become a model for limiting sprawl, maintaining an active business sector, fostering strong local culture, and creating a wide spectrum of transportation options. In recent years, the city population has grown significantly, confirming Portland's status as a desirable place to live. That said, significant questions remain about the equity of opportunity and impact under the current commission form of government. These questions motivated the inquiry reported here and the recommendations to follow.

#### COMMISSION GOVERNMENT AND BUREAUCRATIC EFFICIENCY

Former commissioner Steve Novick offered several instances where he believes that an experienced city manager would have been able to implement a better solution than the one created by the Portland city council.<sup>19</sup> In one case, the Portland Bureau of Environmental Services (BES) had historically paid the Portland Bureau of Transportation (PBOT) for various street-cleaning services. When BES attempted to discontinue the payments, the council ultimately decided to simply cut the payments in half. This was a “purely political decision,” in contrast to the type of policy-based decision-making that a city manager would have been able to apply.<sup>20</sup>

An additional criticism voiced by a large number of the witnesses is that several aspects of the current bureaucratic structure make long-term policy planning difficult. One challenge is the mayor's broad (and frequently exercised) discretion to assign and reassign bureaus among the various commissioners. Your committee is persuaded that there is little upside to bureau assignments being frequently shuffled among commissioners, or reclaimed *en masse* by the mayor as a bargaining or punitive tool. Despite the broad variety of witnesses interviewed, they offered strikingly little defense of this practice. If the bureau heads reported directly to a professional city manager rather than to individual commissioners, we would retain the best aspect of the current system—the ability to change

bureau leadership rapidly where necessary—while better preventing the city's day-to-day functions from being disrupted due to political grappling.

A second point of contention was whether city bureaus are currently able (or willing) to coordinate with each other. Various witnesses heard by the committee alleged that bureaus currently experience a “silo” effect, in which they have little incentive to cooperate outside with bureaus in a different commissioner's portfolio. In explaining how this situation arises, multiple witnesses stated that commissioners have a natural tendency to evaluate a department or other city office by how well that department communicates and collaborates with other departments that also report to the same commissioner. Witnesses also stated that when a dispute or disagreement between departments under the control of different commissioners arises, commissioners tend to defend “their” bureau. The mayor has a broader responsibility, but has limited power to correct the situation: taking back the bureaus in question is a blunt tool that would cause additional bureaucratic disruption, and increase political friction between the mayor and the rest of the council. On the other hand, if all bureaus were ultimately answerable to a professional city manager rather than to various commissioners, turf battles could be reduced, decisions might be more likely to be based upon best practice, and leadership could be more consistent. Finally, with more consistent leadership, the city manager would have time to get to know each bureau's administrator—and more consistent relationships would be more conducive to resolving conflicts.

Accessibility is a key element of equity and another crucial aspect of how well a city government functions, specifically how easily individual residents and civic groups are able to communicate their concerns to the relevant elected official. The committee heard persuasive testimony about accessibility—on both sides of whether to retain the current commission system. On one hand, under the present structure, any resident can contact whichever member of the council is currently assigned

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<sup>19</sup> Testimony of Steve Novick.

<sup>20</sup> Id.



to the relevant bureau. Any Portland resident with concerns about the city's parks, for example, can contact the commissioner or mayor with the Parks & Recreation bureau in their portfolio, no matter where that resident lives. Multiple witnesses pointed out, however, that the current system confused many residents, because not everyone is aware of every bureau assignment and because many issues either span multiple bureaus or don't clearly fit any bureau's responsibilities. This difficulty identifying the proper commissioner to address on a specific issue is further exacerbated by frequent bureau reassignments that make it difficult for city residents to know who is responsible for what and to evaluate the competence of bureau leadership.

Your committee heard similarly competing interpretations of how a city manager/council system would handle resident concerns. The advantages would include: better responsiveness for issues that involve multiple bureaus, more consistent leadership (allowing more effective accountability to city residents), and a more direct connection between Portland's residents and their elected representatives. The disadvantage would be that lobbying individual commissioners might be less effective because the commissioners would no longer be directly answerable for bureau decisions (although they could contact bureaus and/or the city manager to help resolve issues). Looking at the advantages of a city council/management government, multiple witnesses argued that lobbying city council members would be much more effective than at present if city council members were elected by, and thus accountable to, the residents of a particular district.

Given the range of views on the relative merits and shortcomings of the commission system and every alternate system of government, and also cognizant of the inherent institutional resistance to change, your committee did not reach an overwhelming consensus that it is necessary to undertake a wholesale change in Portland's system of government based *solely* on the administrative efficiency or effectiveness of the commission system.

Some members viewed the current administrative structure as so seriously flawed as to warrant replacement while others disagreed. This division reflected a division among our witnesses. Several witnesses were quite explicit in expressing their concern that various groups—including current elected officials, union officials and others who have managed to negotiate the current system successfully—would oppose any change. We were also acutely aware that Portland voters have, on eight occasions, decided against scrapping the commission form of government.

Despite these notes of caution, your committee reached an absolute consensus on the fact that the commission system is directly tied to the inherently unrepresentative and inequitable at-large voting system, and therefore that the commission system should be abandoned. Among city government models compatible with district-based voting, your committee believes that the city council/manager system is the best alternative. We put forward this recommendation in full recognition that the exact details of the system could narrowly improve or narrowly worsen accessibility and that careful attention would need to be paid to this policy area if and when an actual proposed revision to the city charter is drafted.

#### CITYWIDE PLANNING AND PROBLEM-SOLVING

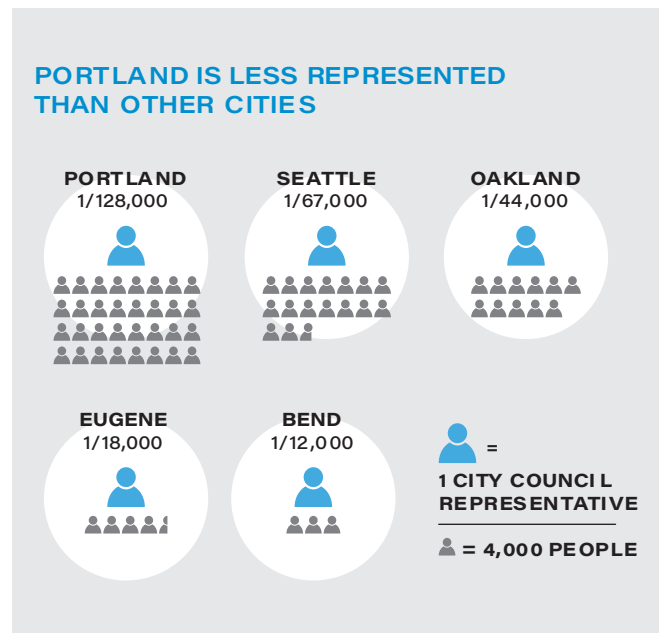
It was difficult for this committee to assess Portland's current ability to set and meet citywide goals, and to tackle large-scale obstacles. On one hand, many of our witnesses—including those who have personally worked in city government—stated in general terms that the city does not perform well in this area, and often cannot come together to define broad goals, much less work toward reaching them. While we valued this testimony, we were able to identify very few specific examples of notable failures of Portland city government that could be convincingly and directly tied to the type of poor performance witnesses described. This is not surprising as attempts to “prove” how the structure of city government or voting led to specific past outcomes tend to devolve into “what if” speculation. Also not surprisingly, previous

City Club reports have run into similar difficulties.<sup>21</sup> A complete listing of previous City Club reports on the best form of government for Portland, along with a brief synopsis of each, is included as Appendix B.

Using an equity lens to analyze the overall process rather than specific past outcomes, however, leads to a much clearer conclusion. How can citywide planning and problem-solving lead to equitable results if the process for choosing elected officials is not equitable? While we cannot say for certain, for example, if policies toward roads, zoning, or other city-wide issues would have been decided differently if the city council better represented Portland residents, an at-large voting system that systematically disadvantages residents based on their race, ethnicity, neighborhood, or socioeconomic group is unlikely to lead to equitable results or an equitable society. In this way, our equity lens led to the same conclusion reached by the U.S. Supreme Court and numerous other federal courts when looking at the unrepresentativeness of at-large voting systems.<sup>22</sup>

More compelling evidence for improvement in Portland's large-scale planning is the fact that there are no elected city officials under the current system whose primary duty is policymaking and strategic planning. The mayor and the rest of the council must divide their time between those responsibilities and the demands of their executive and quasi-judicial roles—most significantly, the task of overseeing multiple city bureaus on a day-to-day basis. Under a city manager/council system, the mayor and council would have the bulk of their executive and administrative duties delegated to the city manager, as well as to career professionals whose job it is to implement, rather than make, policies. Under a council/

manager form of government, city council members would serve primarily as legislators and policymakers who are directly answerable to residents of the area of the city that elected them. Your committee feels that it follows, at least from the narrow perspective of city planning, that changing the structure of government in this way would have substantial potential to improve, and little risk of harming, the status quo.<sup>23</sup>



### MORE CITY COUNCILORS ARE REQUIRED TO EQUITABLY REPRESENT THE PEOPLE OF PORTLAND

There are many competing concerns at work when assessing the ideal size of a city council. Smaller councils allow for closer relationships between council members, while larger councils encourage more robust

<sup>21</sup> See, e.g., the Club's 2002 report on Ballot Measure 26-30, which analyzed several problems the city had experienced (including the relocation of Columbia Sportswear headquarters, and a badly-implemented Water Bureau billing system) but was unable to conclusively connect them to the structure of city government.

<sup>22</sup> US Supreme Court, sample of opinions on at-large voting: *Rogers v. Lodge*, 102 S. Ct. 3272, 3287 n.19 (1982) (in which the Court held that an at-large election system for a large rural county with a large black population violated the Equal Protection Clause); *City of Mobile v. Bolden*, 446 U.S. 55, 65-66 (1980) (criticizing at-large systems for submerging minorities); *Whitcomb v. Chavis*, 403 U.S. 124, 158-59 (1971) (same). Also see US 5th Circuit Court of Appeals rulings, including, *Kirksey v. Board of Supervisors*, 528 F.2d 536, 542 (5th Cir. 1976), rev'd, 554 F.2d 139 (5th Cir.) (en banc), cert. denied, 434 U.S. 968 (1977) and *Moore v. Leflore County Bd. of Election Comm'rs*, 361 F. Supp. 609, 612 (N.D. Miss. 1973), aff'd, 502 F.2d 621 (5th Cir. 1974).

<sup>23</sup> However, see testimony of Nick Fish, stating that he personally would not have chosen to run for city council if executive powers were not available, as it would give council members less opportunity to personally solve problems for their constituents.

debate.<sup>24</sup> If city councils are too large, however, debate and discussion can become more difficult since city council members can lose the ability to interact with all of their colleagues on a one-on-one basis. (One witness cited the extreme case of various cities in the former Soviet Union, where city councils often consist of more than 1,000 members and are thus so large that there is both no accountability and no ability to reach decisions.<sup>25</sup>) Bearing in mind the downfalls of overly large city councils and very small city councils, moderate sized (larger than Portland) city councils have a greater capacity for representing constituents and completing policymaking work. While these benefits come with the cost of spending more on salary and overhead than for a very small council, those costs tend to constitute a small fraction of total city spending.<sup>26</sup> Other trade-offs are hard to measure. For example, smaller councils may be easier for a strong-willed mayor to dominate by force of personality—a drawback shared by very large councils that are unable to reach decisions and in which council members have less individual power.

Despite the complexity of evaluating all these competing strengths and weaknesses in order to determine “the right number” of city council members for Portland, witnesses interviewed by your committee were nearly unanimous in endorsing an increase in the size of Portland’s city council. One commonly-cited factor was that Portland currently offers unusually low representation per city resident. Most American cities with a similar population have roughly double the ratio of elected officials per resident that Portland does, and most cities in Oregon itself have an even higher ratio.<sup>27</sup> In fact, there is no city in the United States of significant size that has a smaller council than Portland. Furthermore, once again

looking through our equity lens and the need to represent diverse backgrounds and experiences, a larger but still moderate-sized council would help with the equity concerns raised elsewhere in this report by creating greater potential for a diverse council and lowering the cost of running for office.

Although some of our witnesses endorsed a city council of as many as fifteen members, your committee believes that a council of eight to twelve members plus the mayor represents a workable alternative.<sup>28</sup> If, for example, the city were divided into four districts that each elected three city council members, the total city council would consist of 13 members — the 12 elected by district plus the mayor. Another option would be to create five districts, each of which elected two members of the city council, for a total of 11 city council members. Assuming that districts are created based upon equal population and with no gerrymandering, switching to four or five districts would automatically increase the geographic diversity of the city council while significantly lowering barriers to entry for running for office. In any scenario involving eight to twelve elected city council members, the total size of the city council would still be small enough for members to get to know each other well, while introducing a much higher potential for the election of members from underrepresented areas such as East Portland.

A city council consisting of eight to twelve members elected by district would also have synergy with the other recommendations included in this report. Such a city council would, for example, be completely compatible with a move to a council/manager system. In addition, the mayor’s reduction in authority under a council/manager system would be softened somewhat by increasing the

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24 For the latter point see, e.g., Testimony of Shawn Fleek.

25 Testimony of political consultant Mark Wiener based upon his experiences in working with cities in the former Soviet Union.

26 “7 Key Questions About How to Change Portland City Government,” Kristen Eberhard, Sightline Institute, 14 June 2017, <http://www.sightline.org/2017/06/14/7-key-questions-about-how-to-change-portland-city-government>

27 Id. Portland has 0.8 elected officials per 100,000 residents. Seattle, Washington has 1.5, Oakland, California has 2.3, Eugene, Oregon has 5.8, and Bend, Oregon has 8.6.

28 Testimony of Steve Novick.

power of the mayor in comparison to individual council members. This is particularly true since the mayor would be the only member of the city council elected by the entire city. There are multiple other advantages to a city council larger than the current one. For example, if Portland were divided into four districts, each of which elected three city council members, the barriers to



entry into the election process would be lowered significantly since a candidate would only need to place in the top three in their district to be successful. Given that traditionally underrepresented groups such as racial, ethnic and socioeconomic minorities have a harder time mustering the resources needed to organize a city-wide campaign, moving to district-based voting and increasing the number of seats available will also increase opportunities for candidates from diverse backgrounds to be elected to the city council.

## ALTERNATE METHODS FOR ELECTING CITY COUNCIL MEMBERS

While the complexity of the issue and the research mandate meant that your research committee was unable to conduct a comprehensive review of alternative voting systems, we did review a variety of models and compared those models based upon how well they advanced the goals of representation and equity. While the results of this analysis clearly demonstrated that traditional, single-member districts are not the best option, we were unable to develop a full model for the “perfect” system for Portland and instead believe the question deserves more study. While our mandate did not extend to working out all the details of a voting system, our analysis led us to conclude that the best system for Portland would include certain key traits, including the use of multimember districts and some form of instant-runoff elections (that eliminate the need for a two-round, May and September, election cycle). The following is a summary of our analysis and findings.

### Single-member Districts

In some communities, the city is divided into a number of geographic districts equal to the number of members of the city council. Residents of each district elect a single representative to the city council. This system is similar to the way other representatives, such as members of the U.S. Congress, are elected and is therefore most familiar to voters. While single member districts reduce some of the systematic biases associated with at-large voting, districts can be drawn in a discriminatory manner via a process commonly referred to as “gerrymandering.”<sup>29</sup> In addition to favoring one political party over the other, gerrymandering has been used to devise electoral districts that systematically disadvantage minorities and other underrepresented groups. Racial, but not political, gerrymandering has been found to be unconstitutional by the Supreme Court.<sup>30</sup>

29 Gerrymandering is named after former Massachusetts Governor (and sixth Vice President of the United States), Elbridge Gerry, whose political party crafted new electoral boundaries in 1812 specifically designed to benefit his own Democratic-Republican Party at the expense of the rival Federalist Party.

30 See “SCOTUSblog” for a discussion of recent cases in Texas, North Carolina, and elsewhere in which the question of political versus racial gerrymandering has been considered by the Supreme Court. <http://www.scotusblog.com/2017/05/symposium-bringing-sanity-racial-gerrymandering-jurisprudence/>

The fact that federal courts frequently ordered jurisdictions subject to special monitoring under the Voting Rights Act to switch from at-large voting to single-mandate district-based voting suggests that single-member districts can increase representation. As research has shown, however, single-member districts improve representation only if minorities in an area are sufficiently concentrated geographically so that one or more “majority minority” districts can be drawn.<sup>31</sup> In a large number of southern and northeastern cities, the geographic concentration of minorities is sufficient to allow such districts to be drawn. In Portland, however, ethnic and racial minorities are sufficiently dispersed throughout that it would be nearly impossible to create a “majority minority” district. In fact, there is only one “majority minority” census tract in the entire city. As the same research also points out, even when minorities are geographically concentrated, creating a “majority minority” district often does not improve minority representation since the term “minority” is used to cover a wide variety of groups with different political views and who support different candidates.

### **Multimember Districts**

As with single-member districting above, under this system, a city is divided into a number of geographically defined districts. With multimember districts, however, the residents of each district elect multiple members to the city council. For example, if there were thirteen members of the city council (12 city councilors plus the mayor), the city could be divided into four districts, each of which would elect three members of the council. A key strength of multimember districts is that they facilitate both majority and minority representation from each district. As long as the system used to create districts is not subjected to racial- or ethnic-based gerrymandering designed to deliberately dilute the vote of minorities, multimember districts lower barriers to entry into the political process and thus increase equity. To maximize the positive aspects of multimember districts, it is

important that all city council members from one district are elected at the same time. By electing multiple representatives of one district on the same day, it becomes increasingly likely that at least one minority candidate will prove successful. Your committee evaluated not only single-member and multimember districts, but also hybrid systems such as those in which some members of city council are elected by district while others are elected at-large. After evaluating multiple such alternatives, your committee found a system based on all multimember districts (with the mayor to be elected at-large) to be the system most likely to increase equity.

Your committee’s mandate did not allow for a comprehensive, systematic evaluation of all possible voting systems. Nonetheless, our group heard overwhelming support from its witnesses for changing how Portland votes for its city council members. Many of these same witnesses stated that a different voting method would have a far greater positive impact on equity than any changes to the bureaucratic structure of city government.

Our witnesses were in broad agreement that if voters in each district were able to elect more than one city council member, it would have a positive impact on equity. Some of the reasons they cited included the following: increasing the breadth of voter choice, encouraging voters to diversify their own votes, allowing more candidates to enter each race, and allowing underrepresented groups more power to boost individual candidates. On the other hand, such a system would come with certain drawbacks, including being more complex and potentially confusing for voters. Overall, this committee believes the benefits would justify switching to such a system, or at least a compromise “hybrid” system with a mix of single- and multi-member districts.

### **First-past-the-post Voting**

This is the most popular and familiar method of voting in the United States. Each voter receives a ballot with a list of candidates, and selects their single preferred choice for

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31 Alternative Voting Systems as Remedies for Unlawful At-Large Systems Source: The Yale Law Journal, Vol. 92, No. 1 (Nov., 1982), pp. 144-160 Published by: The Yale Law Journal Company, Inc.

each position. Each candidate in question then receives one vote. The candidate with the most votes is elected. This is the method currently used to elect Portland city council members. Because “first-past-the-post” voting only produces a single winner with majority support when there are two candidates, nearly all such systems rely on two rounds of voting. In partisan campaigns, the first round is generally called a primary and is generally used to select a candidate from each of the two major parties. In non-partisan campaigns such as Portland’s current commission system, the first round is open to all candidates; the two candidates with the most votes then go on to the second round of voting, which is generally held on the first Tuesday in November to coincide with other regional and national elections. In Portland’s case, if one candidate receives a majority of the votes cast during the first round of voting in May, then that candidate is declared the winner and no election is held in November. Because turnout in the first round tends to be much lower than during the second round, it is not uncommon for a candidate to be declared the winner following the first round of voting, even though only a small minority of eligible voters (as small as 17%, in a recent Portland primary) voted for the candidate.

### Cumulative Voting

“Under cumulative voting, each voter has a certain number of votes to distribute among the candidates. By casting more than one vote for a single candidate, voters are able to express their relative preferences among the candidates. The candidates receiving the most votes win.”<sup>32</sup> Voters are typically given as many votes as there are open seats on the ballot.<sup>33</sup> In a municipal election, for example, voters might be presented with a list of six candidates running for three open city council seats. They would receive three votes, which could be distributed among the candidates however they wanted—one

vote each for three of the candidates, all three votes for one candidate, or any other combination. This extra level of control makes voting more complex, but also creates greatly expanded potential for strategic voting.<sup>34</sup>

Cumulative voting would allow minority demographic groups to “plump” their votes, concentrating them on candidates who best represent their interests, but would also create the potential for vote-splitting that could negate that effect. In studies, however, cumulative voting has been found to significantly increase the likelihood of minority representation over traditional “first past the goalpost” elections.<sup>35</sup>

As an example, if residents of the easternmost section of Portland felt underrepresented on the city council, they could focus their votes on a candidate or candidates from their own region of the city. This same logic applies to the LGBT community, renters, religious minorities, and other groups geographically dispersed around the city.

### Instant-runoff Voting

Instant-runoff voting includes any system that allows the entire election to take place on a single day rather than in the familiar two-round (May and November) voting system. Cumulative voting can be used as an instant-runoff system—when voters can cast multiple votes to select several city candidates, one election’s voting can serve as an accurate measure of the overall community attitude toward candidates, and those who receive the most total votes are declared the winners. In the hypothetical case of a future district in Portland from which three council members are elected, the top three vote-getters would be declared the winner.

Another approach to instant-runoff voting is known as ranked-choice or preferential voting. This system allows voters to choose their favorite candidate, but also to rank the other candidates by order of their personal

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32 Alternative Voting Systems as Remedies for Unlawful At-Large Systems, *The Yale Law Journal*, Vol. 92, No. 1 (Nov., 1982), p. 153

33 *Id.*

34 *Id.*

35 Alternative Voting Systems as Remedies for Unlawful At-Large Systems, *The Yale Law Journal*, Vol. 92, No. 1 (Nov., 1982), pp. 144-160



preference, leaving them with a first choice, second choice, third choice, and so forth.<sup>36</sup> There are multiple variations on instant-runoff voting, but most commonly, if a candidate is the first choice of a majority of voters, that candidate wins. However, if no candidate receives more than 50 percent of the first-choice votes, the candidate who received the *fewest* first-choice votes is eliminated, and his or her voters have their *second-choice* votes distributed to the remaining candidates.<sup>37</sup> This system allows voters to select candidates with less concern over “wasting” their vote on a long-shot—if that candidate is eliminated, they have in effect automatically voted instead for their second choice (or third, or fourth, etc.). Cumulative and other voting systems can also work as “instant-runoff” systems.

Backers state that among the main benefits of ranked choice voting is reducing the risk that “vote splitting” leads to the election of unpopular candidates. In a “first past the goalpost” system, two popular candidates that both appeal to the majority of voters can “split the vote,” throwing the election to a third candidate. Ranked choice also allows voters to have a voice in the election even if their candidate is defeated in the first round.

The witnesses interviewed by your committee who offered testimony on the topic of voting methods were broadly enthusiastic about switching from the current

“first past the post” system to either cumulative or instant-runoff elections, as a means of both improving equity and overall representational effectiveness. However, each of the two possibilities for introducing preferential voting for Portland city council elections has its own potential costs and benefits.

After evaluating the impacts of multiple voting methods using our equity lens, your committee found that “first-past-the-goalpost” voting is the least likely to increase equity by lowering barriers to entry into the political process and increasing the chances that all voices—including minority voices—are heard. The question of which system is best is complex enough that your committee has recommended that City Club consider establishing a separate committee dedicated exclusively to analyzing alternative voting systems for Portland. Our recommendation is therefore general in stating that Portland should adopt some alternative voting system such as ranked-choice, preferential, or cumulative voting to better achieve equity goals.

Upon review of these models, and in recognition of the complexity of issues surrounding these alternative models, your committee recommends that City Club commission a future research committee to explore the appropriateness of alternative voting models in Portland.

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36 FairVote, Instant Runoff Voting (IRV), <http://archive.fairvote.org/factshts/irv.htm>

37 Id.

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## Conclusions

1. Portland’s current form of city government fails to provide equitable representation by nearly every metric, including income, geography, gender, race, and ethnicity.
2. The current allocation of responsibility to the mayor and the city council appears to result in poor bureaucratic performance.
3. Portland has long since outgrown the size of its current city council and would be better served across many different arenas by increasing the number of members.
4. Changing to a form of preferential voting for city council members is urgently needed to deliver more equitable representation.



# Recommendations

**Executive authority** should be centralized in the office of mayor, but delegated in large part to a city manager.

**Portland should** have a professional city manager selected by the mayor, subject to council approval. The city manager must be a qualified professional with relevant training and experience.

**The mayor** should serve as the permanent chairperson of the city council and cast tie-breaking votes where applicable, although this is a moot point as long as the total number of city council members (“regular” members plus the mayor) is an odd number.<sup>38</sup>

**Portland should** stop electing city council members in at-large elections, opting instead for district-based elections, preferably with multiple commissioners per district.

**Portland should** further explore alternative systems of voting, using an appropriate equity lens to decide which system is most likely to produce the best results for Portland. While it was beyond the mandate of this committee to develop a definitive recommendation as to voting system, it is clear from our research that traditional “first-past-the-goalpost” voting is not the best system in terms of equity.

**The size** of the Portland city council should be increased to at least eight commissioners, plus the mayor.

## OPPORTUNITIES FOR FURTHER RESEARCH

**Alternate voting methods.** As stated in the Executive Summary and body of this report, we strongly believe that Portland should move away from its current at-large, first-past-the-goalpost system of voting because that system has been shown (in theory, in practice, and in the courts) to systematically underrepresent many communities. In Portland’s case, those systematically underrepresented communities include everyone who does not live in SW Portland (but particularly those living east of 82th Avenue), people of color, women, ethnic minorities, young people, renters, and others. We therefore strongly recommend that Portland change its method of voting—whether or not Portlanders ultimately follow our recommendation to scrap the commission form of government. (We are aware that on eight separate occasions, Portland voters have rejected ballot measures to replace the commission form of government.) Your research committee therefore recommends that the City Club of Portland should immediately undertake additional research on voting reforms that could move Portland toward a more equitable government, including:

### **Instituting a system of preferential voting.**

Whether instant run-off, cumulative, or ranked-choice, Portland should institute some system of preferential voting to elect our city leaders, including the mayor, in one election in the fall, when voters are most engaged. Portland has several options for election reform, each with pros and cons that are worthy of further study. However, all of the options can encourage engagement and success for a wider range of candidates than our current

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38 As long as the total number of members of Portland’s city council remains an odd number, there will be no difference between a system in which the mayor always votes or one in which the mayor only votes to break a tie. Take, for example, a hypothetical city council consisting of eight members plus the mayor. If five of the eight agree, the mayor’s vote would not change the result, regardless of whether he voted always or as a tie-breaker. Instead, the mayor’s vote would only decide if the final tally was 5-4 or 6-3. Similarly, if the eight “regular” members of the city council are evenly split, 4-4, then the mayor’s vote will be the deciding voice whether or not the mayor votes all the time or only in the case of a tie.

first-past-the-post, single-seat primary and general elections.

**Expanding the City Council by at least two commissioners.** As explained above, a larger council offers more chance to represent diverse viewpoints and backgrounds. The bureau assignments would be spread more thinly, and each commissioner might have fewer staff, but they might also have more time to focus on constituent services and their policy and legislative functions.

**Electing a multimember slate of commissioners in one election.** If there remain only four commissioners, all four could be elected in one election year, with the mayor elected the alternate election year. With some sort of preferential voting, the top four finishers would win the seats. (With their name recognition and other advantages, incumbents would be likely to continue to win reelection, so a clean sweep and disruption that that might cause is unlikely.) Alternately, with a larger council, a slate of

three commissioners could be elected each election year, again through some form of preferential voting.

**Office of Neighborhood Involvement / Office of Community and Civic Life.** In unsolicited comments, our witnesses heaped enormous unprompted criticism on ONI, to a degree suggesting it would be useful to examine whether the office is delivering appreciable value to Portland residents. While ONI has recently undergone significant changes, including changing its name to the Office of Community and Civic Life, the nature of the criticisms were more fundamental and pointed to systemic problems of equity related to the fact that most neighborhood associations (which absorb the lion's share of ONI funding) are composed of primarily white, affluent home owners.

**District mapping.** Although the committee has recommended switching from at-large to district-based voting, significant work will be needed to define the boundaries of potential districts. In general, we endorse the creation of equitable, compact electoral districts, compliant with the Voting Rights Act.

**RESPECTFULLY SUBMITTED,**

Ken Fairfax, Chair  
Amanda Manjarrez, Vice-chair  
Dillon Styke, Lead Writer  
Sarah Carlin Ames  
Christopher Bacher

Tina McNerthney  
Lynn Peterson  
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## Appendix A: Research Methods and Activities

Following procedures laid down by City Club's research board and Board of Governors, the research committee began with a literature review. The research committee was aided considerably in this effort by City Club staff, who compiled an extensive initial bibliography. Since the research committee consists of members from various background, an annotated guide to the bibliography was prepared by a committee member to help others quickly identify articles and sources with information most directly applicable to the research charge. The bibliography compiled by City Club staff was just the starting point. Research committee members were encouraged to explore relevant studies on their own and share their thoughts within the team. A Google group was created to facilitate discussions and document sharing among members.

Beside literature review and in-depth decisions among members, the City Government and Equity Research Committee employed City Club's most common tool for report preparation: interviewing witnesses with particular expertise related to the topic. While early interviews were less structured (with group members submitting questions to a facilitator prior to each interview), the group soon developed a list of key questions that were repeated to various witnesses in order to gather diverse responses to the same question. The standard questions were always used only as a starting point, however, and both witnesses and research committee members engaged in active discussions in order to pursue key concepts. The combination of structured and unstructured interviews provided a degree of consistency in data collection while providing opportunities for both broader and deeper discussions.

The committee assigned a member in charge of setting-up interviews with witnesses. Initially, witnesses were recruited based on a list developed by City Club staff prior to the formation of the research committee. Quickly, however, research committee members expanded upon that list based on leads uncovered during literature research as well as the suggestions of witnesses. Both while reading and during interviews, research committee members strove to ensure that the list of witnesses included persons representing diverse viewpoints. Particular attention was devoted to identifying witnesses who both support and oppose various aspects of Portland's current form of government. Considerable effort was also devoted to interviewing witnesses with deep experience but varying viewpoints on questions of equity and representation in government. As research progressed, this resulted in a snowball approach to selecting witnesses as well as written sources, with each new data point enhancing the research committee's ability to identify additional areas where expertise was needed.

Over the course of its work, the research committee heard the testimony of more than a dozen civic leaders, government officials, academics, and public advocates. Additionally, committee members reviewed extensive academic literature, statistical data, and current news and analyses. Committee subgroups performed deep dives into particularly complex topics such as mayoral powers and alternate voting systems. In the following discussion section, different perspectives are presented and weighed for their significance and persuasiveness, in the interest of producing the strongest possible recommendations for the residents of Portland.

## Appendix B: Past City Club Studies of Local Government in Portland

**1930's through 1950's:** During this period, City Club issued a recommendation in 1933 and again in 1958, both in favor of adopting a council/city manager form of government.

**1960's:** During this period, City Club completed an in-depth report concluding that Portland's city government was being weakened by having management power spread among the five commissioners, and that legislative effectiveness was impaired by the inherent conflict between bureau-specific priorities and citywide needs. The research committee unanimously recommended adopting a strong mayor-council form, with an expanded city council whose members would be elected at large. Following overwhelming approval of the report by the Club's full membership, City Club assembled a sub-committee to draft a proposed city charter incorporating the report's recommendations. The proposed charter was the basis for a ballot measure created by a coalition of local civic and political groups. The measure itself was then endorsed by City Club, but went on to be rejected by Portland voters in 1966 by a two-to-one margin.

**1990's:** City Club issued a report on city planning in 1999, titled *Increasing Density in Portland*. While focused on city development, the report also concluded that the commission system "inhibits more coordinated and effective management," that the mayor and city council lacked a comprehensive plan for Portland, and that planning and development were badly fragmented across multiple bureaus.

**2002:** Measure 26-30 proposed a mayor/council form with an expanded city council of nine members—seven elected from geographic districts, and two elected at large. City Club assembled a committee whose majority report supported the measure, finding it would increase government efficiency and equitable representation. However, City Club's membership ultimately voted to adopt a minority report which demanded a more detailed review by a charter review commission organized by the city. Measure 26-30 itself was ultimately rejected by Portland voters by a wide margin.

**2007:** The mayor/council system was proposed again by Measure 26-91, which would have balanced increased mayoral power by also strengthening the city's chief administrative officer. The CAO would be appointed by the mayor and confirmed by the council, and would oversee the city bureaus, as well as coordinating the city's overall operations and finances. Measure 26-91 also differed from the 2002 ballot measure by withholding veto power from the mayor and by leaving the number of council members at four. The City Club research committee tasked with reviewing the Measure ultimately announced its unanimous opposition, finding that the Measure's proponents had failed to make their case, and that changing the current form risked sacrificing the "resiliency and creativity" of Portland city government. Like the 2002 attempt, Measure 26-91 was easily defeated by Portland voters.

## Appendix C: Questions Addressed

**What is the most effective form of city government for Portland residents?**

**What is the most equitable form of city government for Portland residents?**

**How should city council members be elected and how many should there be?**

**What is the most equitable form of voting to elect city council members?**

## Appendix D: Witness List

**Bud Clark**

Former Mayor of Portland

**Ann Curry-Stevens**

Associate Professor, PSU

**Kristin Eberhard**

Sightline Institute

**Nick Fish**

Portland City Commissioner

**Shawn Fleek**

Community Engagement Coordinator, OPAL

**Mark Frohnmayer**

Founder, Equal Vote

**Felisa Hagins**

SEIU Local 49

**Mary Hull-Caballero**

Portland City Auditor

**Fred Miller**

Former CAO, Portland Office of Management  
and Finance

**Masami Nishishiba**

Chair, Public Administration Division, PSU

**Steve Novick**

Former Portland City Commissioner

**Ana del Rocío**

State Director, Color PAC

**Shelli Romero**

President of “Rose City Chicas,” a group focusing on  
strategies for maximizing the potential of women of color  
and a previous member of the Portland City Charter  
Review Commission.

**Eugene Wasserman**

President, North Seattle Industrial Association

**Mark Wiener**

Co-Founder, Winning Mark

**Desiree Williams Rajee**

Founder, Kapwa Consulting

## Appendix E: Witness Assertions

### ASSERTIONS IN FAVOR OF CURRENT SYSTEM

- “At large” council members each have official responsibility to represent the entire city—a district-based structure would be “license to ignore” districts outside the council member’s own.
- Portland’s city government is functioning reasonably well and is reasonably popular with voters.
- Portland has a uniquely high level of civic engagement and is otherwise unique and we should not change to be more like every other city.
- The current system offers protection against a weak or incompetent mayor.
- A larger city council would be more expensive.
- Allowing commissioners to have executive control over their bureaus allows for greater innovation than would be the case if priorities were selected by the mayor alone.
- Current city government has various oversight mechanisms in place (manager, CAO).
- Interest groups with a citywide focus—such as environmental groups, real estate developers, and unions—would lose influence under a district system.
- Voters have consistently rejected every previous proposal to change the form of government since the commission form was instituted in 1913.
- Voters can currently take their concerns to whichever commissioner runs the relevant bureau, but under a district-based system their council member may not have influence over a particular policy area.
- Having representative council members who are inaccessible may mean less equitable outcomes than accessible commissioners who are less

representative of Portland as a whole. (Descriptive representation versus functional representation)

- Disparate outcomes have overlapping causes, of which the form of city government plays only a small role.
- Top-level changes to a model of governance cannot force politicians to remain accountable to voters. Using other mechanisms to require them to check in with voter priorities would be more effective.
- The current system allows Portland residents to “shop for a champion” for a particular issue, rather than only having “one bite at the apple” in a system where commissioners have less executive power.
- An “at-large” system allows commissioners to make decisions that are beneficial for the city, but politically unpopular with a particular segment of the population, without being voted out.
- If commissioners had reduced executive power, the position would be less interesting, and would attract lower caliber candidates.

### ASSERTIONS IN FAVOR OF CHANGING THE FORM OF GOVERNMENT

- The commission system of government creates an “odd” situation in which the roles of political leader and professional administrator are comingled. The skills that enable a successful candidate to be elected to public office are not the same skills required to be successful as an administrator of a complex government bureaucracy focused on specific substantive issues.
- Portland’s population has grown too large for the current system.



- Commissioners focus on their own bureaus at the expense of coordinated, citywide priorities.
- Commissioners do not have the time to balance their legislative responsibilities with the running of multiple bureaus and may lack necessary management skills.
- Commissioners may be assigned to crucial bureaus with which they have little or no experience.
- The residents of Portland are not well represented by the current council in terms of geography, gender, ethnicity, wealth, and other factors.
- Residents of Portland frequently do not know whom they should call to resolve an issue since bureau assignments change and many issues impact more than one bureau.
- Commission system forces a small group of officials to work together closely—if personality conflicts occur, system can break down entirely.
- Electing council members by geographic district would provide residents of Portland with a clearly identified single point of contact in city government.
- A larger city council would lower the cost of running for council, allowing a more diverse and representative candidate pool. Campaigning over a smaller area means having to fund fewer voter contacts.
- A new council structure would free up council members to spend more time on long-range planning.
- It is impossible for voters to know or control who will end up running which bureaus.
- It is difficult for community partners to exert influence when bureau assignments change frequently.
- The proximity of commissioners to city bureau employees stifles the latter's creativity.
- Neighborhood Associations are unrepresentative and a poor substitute for better geographic representation in city government.
- Larger legislative bodies lead to more robust debate and more diversity of opinion.
- The current bureau-based approach is fragmented and leads to irrational outcomes versus setting citywide priorities.
- The current bureau-based approach leads to excessive “stove piping,” discourages inter-bureau coordination, and creates incentives for commissioners to seek the highest levels of funding for the bureaus they manage.
- A city manager could prioritize pressing issues and leave bureaus the independence to handle minor issues internally.
- A city manager can resolve inter-bureau disputes on a policy basis rather than a political basis.
- There is little current accountability for issues that cross multiple city bureaus.
- Granting more power to a mayor or city manager would bring their capabilities into line with what Portland voters expect.
- Increasing the number of members of the city council would increase the council's capacity to represent residents and make it easier for residents to interact with council members.
- Bureau oversight is a challenge since each bureau is under the protection of a particular commissioner.

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US Supreme Court, sample of opinions on at-large voting: *Rogers v. Lodge*, 102 S. Ct. 3272, 3287 n.19 (1982) (in which the Court held that an at-large election system for a large rural county with a large black population violated the Equal Protection Clause), *City of Mobile v. Bolden*, 446 U.S. 55, 65-66 (1980) (criticizing at-large systems for submerging minorities); *Whitcomb v. Chavis*, 403 U.S. 124, 158-59 (1971) (same). Also see US 5<sup>th</sup> Circuit Court of Appeals rulings, including, *Kirksey v. Board of Supervisors*, 528 F.2d 536, 542 (5th Cir. 1976), rev'd, 554 F.2d 139 (5th Cir.) (en banc), cert. denied, 434 U.S. 968 (1977) and *Moore v. Leflore County Bd. of Election Comm'rs*, 361 F. Supp. 609, 612 (N.D. Miss. 1973), aff'd, 502 F.2d 621 (5th Cir. 1974);

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